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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 170316276-7483-02]

RIN 0648-XF300

Fisheries of the Northeastern United States; Black Sea Bass Fishery; Revised 2017 and Projected 2018 Specifications

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: In this rule, NMFS issues revised final 2017 and projected 2018 specifications, and removes a previously implemented commercial fishery accountability measure for the 2017 black sea bass fishery. These actions are necessary to comply with regulations implementing the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan, and to ensure compliance with the Magnuson-Stevens Fishery Conservation and Management Act. The intended effect of this rule is to revise 2017 black sea bass catch limits to afford more opportunity to obtain optimum yield and to inform the public of projected changes to 2018 catch limits.

DATES: Effective *[insert date of publication in the FEDERAL REGISTER]*, through January 1, 2018.

ADDRESSES: Copies of the specifications document, including the Environmental Assessment (EA), are available on request from Dr. Christopher M. Moore, Executive Director, Mid-Atlantic Fishery Management Council, Suite 201, 800 North State Street, Dover, DE 19901. The specifications document is also accessible via the Internet at <http://www.greateratlantic.fisheries.noaa.gov>.

FOR FURTHER INFORMATION CONTACT: Cynthia Hanson, Fishery Management Specialist, (978) 281-9180.

SUPPLEMENTARY INFORMATION:

Background

Black sea bass are jointly managed by the Mid-Atlantic Fishery Management Council and the Atlantic States Marine Fisheries Commission as part of the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan (FMP). Specifications in these fisheries include various catch and landing subdivisions, such as the commercial and recreational sector annual catch limits (ACLs), annual catch targets (ACTs), and sector-specific landing limits (*i.e.*, the commercial fishery quota and recreational harvest limit).

On December 28, 2015, NMFS published a final rule implementing the Council's recommended 2016-2018 specifications for the black sea bass fishery (80 FR 80689). The Council intended to reconsider the specifications set for fishing year 2017 following completion of the next black sea bass benchmark assessment in late 2016/early 2017.

As detailed in the proposed rule (82 FR 17964; April 14, 2017), the peer-reviewed assessment indicates that the black sea bass stock north of Cape Hatteras is not overfished and overfishing is not occurring. The spawning stock biomass in 2015 (the terminal year of the

assessment) was estimated to be 2.3 times higher than the target and the fishing mortality rate was 25 percent below the overfishing threshold. Additional information on the assessment and the Council's recommendation are provided in the proposed rule and not repeated here. This final rule implements the Council's recommended black sea bass specifications for the 2017 fishing year and updates projected specifications for 2018. By providing projected specifications for 2018, NMFS hopes to assist fishery participants in planning ahead. This rule also removes the commercial fishery accountability measure (AM) previously implemented to the 2017 fishing year (81 FR 93842; December 22, 2016). Final 2018 specifications will be published in the **Federal Register** before the start of the 2018 fishing year (January 1, 2018) following the Council's review.

NMFS will consider any needed changes to the 2017 recreational management measures (*i.e.*, minimum fish size, per-angler possession limits, and fishing seasons) for black sea bass through a separate action before summer 2017.

Revised 2017 and Projected 2018 Black Sea Bass Specifications

This rule implements the revised 2017 and projected 2018 acceptable biological catch (ABC) and commercial and recreational catch limits (Table 1), as outlined in the proposed rule.

The revised 2017 specifications represent a 53-percent increase from the previously implemented 2017 commercial quota, and a 52-percent increase in the 2017 recreational harvest limit.

Table 1. Revised Black Sea Bass Specifications for 2017 and Projected Specifications for 2018.

	Black Sea Bass Specifications		
	2017 (Current)	2017 (Revised)	2018 (Projected)

	million lb	mt	million lb	mt	million lb	mt
OFL	n/a	n/a	12.05	5,467	10.29	4,669
ABC	6.67	3,025	10.47	4,750	8.94	4,057
Commercial ACL	3.15	1,428	5.09	2,311	4.35	1,974
Commercial ACT	3.15*	1,428*	5.09	2,311	4.35	1,974
Estimated Commercial Discards	0.44	198	0.97	442	0.83	377
Commercial Quota	2.71*	1,226*	4.12	1,869	3.52	1,596
Recreational ACL	3.52	1,597	5.38	2,439	4.59	2,083
Recreational ACT	3.52	1,597	5.38	2,439	4.59	2,083
Estimated Recreational Discards	0.70	317	1.09	494	0.93	422
Recreational Harvest Limit	2.82	1,280	4.29	1,945	3.66	1,661

*These commercial catch specifications were reduced by the AM implemented in December, 2016. The revised 2017 specifications rescind the AM reductions (see next section for details).

Removal of the 2017 Accountability Measure for the Commercial Fishery

NMFS previously announced an AM applicable to the 2017 black sea bass commercial fishery in December 2016 (81 FR 93842). This AM was an automatic pound-for-pound payback of a 2015 fishing year ACL overage, resulting in a 30-percent quota reduction in 2017. If the new stock assessment had been available to set 2015 specifications, catch limits would have been considerably higher, and the 2015 ACL would not have been exceeded. Consistent with the rationale outlined in the proposed rule, we are not deducting the 2015 overage from these revised 2017 specifications.

Comments and Responses

On April 14, 2017, NMFS published the proposed revisions to the black sea bass specifications. NMFS received two comments on the proposed rule. Both commenters expressed support for the quota increases, noting the benefits for both the black sea bass and

lobster industries. No changes to the proposed specifications were made as a result of these comments.

Classification

The Administrator, Greater Atlantic Region, NMFS, determined that these specifications are necessary for the conservation and management of the black sea bass fishery and that they are consistent with the Magnuson-Stevens Act and other applicable laws.

The Acting Assistant Administrator for Fisheries, NOAA, finds good cause to waive the requirement for a 30-day delay in effectiveness period for this rule under 5 U.S.C. 553(d)(1) and (3), because a delay in its effectiveness would be unnecessary and contrary to the public interest. The delay would be unnecessary because this action imposes no new requirements or burdens on the public, therefore, the public need not take any steps to comply with this rule. The delay would be contrary to the public interest because this action provides economic benefits to fishery participants by substantially increasing both commercial and recreational catch limits, without resulting in overfishing. Failure to make this final rule effective immediately will undermine the intent of the rule, which is to promote the optimal utilization and conservation of the black sea bass resource. Furthermore, the revised 2017 specifications remove an accountability measure from the commercial fishery that had further restricted catch, so their timely implementation also relieves an additional constraint upon fishing opportunity. These changes would have been incorporated into the initial 2017 black sea bass specifications published in December 2016 (81 FR 93842), but final data from the peer-reviewed benchmark stock assessment was not released by the Northeast Fisheries Science Center until January 2017, and could not be reviewed by the Council and Commission until February 2017.

Many states adjust their own quota management strategies to avoid overages in the commercial black sea bass fishery each year. If the 30-day delay of effectiveness is not waived, unnecessarily restrictive state measures will remain in effect longer and put commercial vessels at a disadvantage. It is important to implement these changes as quickly as possible to prevent loss of potential catch and economic opportunity.

If this final rule were delayed for 30 days, the fishery would forego some amount of landings and revenues during the delay period. For these reasons, a 30-day delay in effectiveness would be contrary to the public interest as this rule relieves quota-related restrictions. As a result, NMFS is waiving the requirement.

This final rule is exempt from the procedures of E.O. 12866 because this action contains no implementing regulations.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule and is not

repeated here. No comments were received regarding this certification, and the initial certification remains unchanged. As a result, a final regulatory flexibility analysis is not required and none has been prepared.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: May 19, 2017.

Alan D. Risenhoover,

Acting Deputy Assistant Administrator for Regulatory Programs,

National Marine Fisheries Service.

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